

03-18-04

Attorney's Docket No.: 16596-018001

1642

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Matthew C. Coffey, et al.                      Art Unit : 1642  
Serial No. : 10/076,074    Examiner : Sheela J. Huff  
Filed : February 15, 2002  
Title : SENSITIZATION OF CHEMOTHERAPEUTIC AGENT RESISTANT  
              NEOPLASTIC CELLS WITH A VIRUS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This Responsive to Restriction Requirement is being submitted in response to the Office Action mailed on February 18, 2004, for the above-captioned application. The Examiner set a one (1) month period for response. This Response is therefore timely since it is being filed on or before its current due date of March 18, 2004.

The Examiner has restricted the claims of this application into five groups:

- I. Claims 1-11, drawn to methods of sensitizing a neoplastic cell to a chemotherapeutic agent using a reovirus, classified in class 435, subclass 325+.
- II. Claims 12-25, drawn to methods of treating a subject with a proliferative disorder using reovirus, classified in class 424, subclass 204.1
- III. Claims 26-30, drawn to methods of preventing a neoplasm in a subject from developing drug resistance, classified in class 424, subclass 204.1+.
- IV. Claims 31-32, drawn to methods of sensitizing a neoplastic cell to a chemotherapeutic agent using a virus, classified in class 424, subclass 204.1+.
- V. Claims 33-34, drawn to methods of treating a subject with a proliferative disorder using a virus, classified in class 424, subclass 204.1+.

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Responsive to the Office Action, applicant elects the invention of Group I (claims 1-11) drawn to methods of sensitizing a neoplastic cell to a chemotherapeutic agent using a reovirus, classified in class 435, subclass 325+. The election is made with traverse for the reasons set forth below.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (a) The inventions must be independent or distinct as claimed; and
- (b) There must be a serious burden on the Examiner if restriction is not required.

MPEP §803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. *Id.*

In the instant application, there would not be a serious burden on the Examiner if Groups I, II and III are rejoined. Additionally, applicants respectfully submit there would not be a serious burden on the Examiner if Groups I and IV are rejoined. Similarly, applicants respectfully request that Groups II and V be rejoined.

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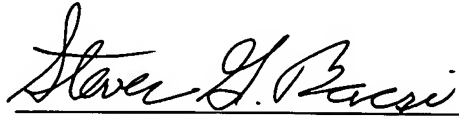
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Should the Examiner have any questions, a telephone call to the undersigned would be appreciated. Early examination of this application is earnestly solicited.

Respectfully submitted,

Date: 3-16-04

  
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